

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

ERIKA SMITH and XAVIER JONES, wife
and husband,

Civil Action No. 3:20-cv-5477

Plaintiffs.

**DEFENDANT WALMART INC.'S NOTICE
OF REMOVAL OF ACTION PURSUANT
TO U.S.C. SECTIONS 1332, 1441, AND 1446**

WALMART, INC., a foreign corporation d/b/a
WALMART #4137, and J. Does 1-10,

Defendants.

TO: CLERK, U.S. DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON

AND TO: PLAINTIFFS' COUNSEL OF RECORD

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant Walmart Inc. ("Walmart") hereby removes this action from the Superior Court of the State of Washington in and for the County of Pierce to the United States District Court for the Western District of Washington.

I. STATEMENT AND GROUNDS FOR REMOVAL

1. On or about April 6, 2020, plaintiffs filed a lawsuit in Pierce County Superior Court entitled *Erika Smith and Xavier Jones v Walmart, Inc, d/b/a Walmart #4137 and J. Does 1-10*, cause number 20-2-05822-5 (the "State Court Action"). Plaintiffs served Walmart with a copy of the Summons and Complaint on May 5, 2020. Plaintiffs claim that as a result of Walmart's negligence,

**DEFENDANT WALMART INC.'S NOTICE OF
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SECTIONS 1332, 1441, AND 1446 - 1**

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they have suffered substantial injuries, pain and discomfort, and/or a loss of consortium, and have incurred, and will continue to incur, medical expenses. Therefore, the amount in controversy appears to be in excess of \$75,000. *Declaration of Colin J. Troy* at ¶ 9.

4 2. Walmart has answered the Complaint filed in the State Court Action. The documents
5 attached to the *Declaration of Colin J. Troy* as Exhibit A constitute all of the pleadings filed in the
6 State Court Action. Walmart represents that, apart from the materials attached to the *Declaration of*
7 *Colin J. Troy* as Exhibit A, it has received no other process, pleadings, motions or orders in this
8 action.

9 3. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §1332.
10 There is complete diversity of citizenship between the parties because plaintiffs are residents of
11 Pierce County, Washington. Exhibit A to *Declaration of Colin J. Troy*. Defendant Walmart is a
12 Delaware corporation with headquarters located in Bentonville, Arkansas. Exhibit C to *Declaration*
13 *of Colin J. Troy*.

14 4. Walmart reserves the right to amend or supplement this Notice of Removal.

15 5. Should plaintiffs file a motion to remand this case, Walmart respectfully requests the
16 opportunity to respond more fully in writing, including the submission of affidavits or other
17 authority.

18 6. By filing this *Notice of Removal*, Walmart does not waive, and expressly reserves, all
19 defenses available under Rule 12 of the Federal Rules of Civil Procedure.

II. INTRADISTRICT ASSIGNMENT

21 7. This claim is pending in the county of Pierce, Washington, and assignment to a judge
22 in Tacoma is appropriate.

III. NOTICE TO THE STATE COURT AND PROPER FILING OF RECORDS

24 8. A notice of the filing of this *Notice of Removal* and a true copy of this *Notice of*
25 *Removal* will be filed with the Clerk of the Superior Court of the State of Washington in and for the

1 County of Pierce as required by 28 U.S.C. § 1446(d).

2 9. Copies of all records and proceeding in the state court together with the *Declaration*
3 *of Colin J. Troy* verifying that they are true and complete copies of all the records and proceedings in
4 the State Court Action are filed concurrently with this *Notice*.

5 WHEREFORE, Walmart requests that this case currently pending in the Superior Court be
6 placed on the docket of the United States District Court for the Western District of Washington.

8 | DATED: May 22, 2020

WOOD, SMITH, HENNING & BERMAN LLP

s/Colin J. Troy

Colin J. Troy, WSBA #46197

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Attorneys for Walmart Inc.

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1 CERTIFICATE OF SERVICE

2 I hereby certify that on May 22, 2020, I electronically filed DEFENDANT WALMART,
3 INC.'S NOTICE OF REMOVAL OF ACTION PURSUANT TO U.S.C. SECTIONS 1332, 1441
4 AND 1446 with the Clerk of the Court using the CM/ECF.

5 I hereby certify that the following have been served via CM/ECF electronic service:

6 Zach J. Hansen
7 Wattel & York, LLC
8 6314 19th Street West, Suite 15
 Fircrest, WA 98466
9 z.hansen@wattelandyork.com

10 DATED this 22 day of May, 2020.

11
12 _____
13 /s/Keaton McKeague
14 Keaton McKeague
15 kmckeague@wshblaw.com

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LEGAL:10366-0155/14541152.1

DEFENDANT WALMART INC.'S NOTICE OF
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